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# C O N T E N T S.

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| | | Opinions under the Bombay Growth of Foodcrops Act, 1944 | |
| 1 | O.No. 7491 10-10-1945 | Sections 4,5 and 10 The Bombay Tenancy Act, 1939 S. 16 The Land Revenue Code, 1879, section 84 A Whether the proportionate transfer of the suspension or remission in assessment allowed by Govt. for any cause do not become inoperative only on the ground that they have not beenmentioned in section 10(2) | 1-4 |

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Office ofthe R.L.A.

Government has announced by public notice that if the orders passed by Government under sections 4 and 5 of the Bombay Growth of Foodcrops Act, 1944, were observed by every body in the village, a remission of tw annas in the rupee e in all land revenue of the village would be given by Government and tenant cultivators would get remission of rent to the extent of four annas in the rupee. The Collector of Surat in h's letter dated the 20th July 1945, states that under sub-section (2) of section 10 of the Bombay Growth of Food crops Act, 1944, the rents payable by a cultivator to his superior holder in respect ofany area to which an order under section 4 applied, should be adjusted in accordance with the provisions of section 84A of the Bombay Land Revenue Code, 1879, but as the Bombay Tenancy Act, 1939, has been applied to the whole of the Surat District, the remission of rent to the tenants should be adusted in accordance with the provisions of section 16 of the Bombay Tenancy Act, 1939. The Commi ssioner Northern Division observes:- "the provisions of section 16 of the Tenenacy Act which direct the proport ionate transfer of the suspension or remission inassess-ment allowed by Government for any cause,do not become inoperative only on the ground that they have not been mentioned in section 10(2) of the Bombay Growth of Foodcrops Act alongwith section 84A of the Bombay Land Revenue Code. It would however be advisable to..... amend the Growth of Foodcrops Act to make it clear that in areas in which the Tenancy Act is applied adjustment is to be made in accordance with section 16 of that Act' The Secretary, Reconstruction Department considers that in view of the conflicting provisions, an amendment is necessary and that for the words and figures "in accord-ance with section 84A of the Bombay Land Revenue Code,

1879", in section 10(2) of the Bombay Land Revenue Code the words and figures "in accordance with section 16 of the Bombay Tenancy Act, 1939" may be substituted. The Secretary, Revenue Department, does not agree with the view expressed by the Secretary Reconstruction Department. He states:-

"I do not think it is correct to hold that the application of the Tenancy Act to any area automatically makes section 84A of the Bombay Land Revenue Code inoperative in that area. Section 84A of the Land Revenue Code does not apply only in those cases where section 16 of the Tenancy Act applies. In view, however, of the fact that section 10(2) of the Bombay Growth of Foodcrops Act specifically refers to adjustment of the rent in accordance with section 84A of the Bombay Land Revenue Code, the rent can be adjusted by reduction in rent upto twice the amount of reduction inrevenue granted to the landlord under section 84A of the Land Revenue Code even in areas where the Tenancy Act applies".

The R.L.A. is requested to advise on the point raised.

Sub-section (1) of section 10 of the Bombay Growth of Foodcrops Act, 1944, provides that the Provincial Government may remit any part of land revenue or irrigation dues if in itsopinion it is necessary todo so in respect of any area to which anorder under section 4 applies. Sub-section (2) lays down that whenever remission is granted inany area under sub-section (1) rents payable by cultivator to his superior holder in such area shall be adjusted in accordance with section 84A of the Bombay Land Revenue Code, 1879. Section 16(1) of the Bombay Tenancy Act provides that "notwithstanding anything contained in section 84A of the Bombay Land Revenue Code, 1879, whenever from any cause the payment of the whole land revenue payable to Government by a landlord shall suspend or remit, as the case may be, the payment to him of the rent of such land by his tenant.

If in the case of such land the land revenue is partially suspended or remitted, the landlord shall suspend or remit the rent payable by the tenant of such land in the same proportion". All these provisions have to be read together and reconciled. In the area to which section 16(1) of the Bombay Tenancy Act applies section 84A of the Bombay Land Revenue Code in so far as it relates to the extension of benefit of remission or suspension of land revenue to the cultivators will have no application, and the words "whenever from any cause " in section 16(1) of the Bombay Tenancy Act clearly indicate that it is immaterial whether the suspension or remission of land revenue is onaccount of any scarcity or famine in the area or for any other reason deemd fit by ---- Government. Consequently section 16(1) will apply even when the reduction of revenue has been ordered by Government under section 10(1) of the Bombay Growth of Foodcrops Act. It is true that under section 10(2) of that Act the adjustment of rent payable by a cultivator has to be done in accordance with section 84A of the Bombay Land Revenue Code, Since however section 84A of the Bombay Land Revenue Code will not be applicable to the area to which section 16(1) of the Bombay Tenancy Act has been applied , section 10(2) of the Bombay Growth of Foodcrops Act would it seems have no force in such area and thebenefit of reduction of rent consequent on the reduction of land revenue under section 10(1) will have to be adjusted as provided in section 16(1) of the Bombay Tenancy Act. Consequently the amendment of section 10(2) of the Bombay Growthof Foodcrops Act does not appear to be quite necessary. There is however no objection to amending it for the sake of clarity as suggested by the Secretary, Reconstruction Department.

Id./..... 8/10/45
Remembrancer of Legal Affairs.

U.R. to R.C.D.No. 7491, dated the 10th October 1945.
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